

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BROADCAST MUSIC, INC.; STONE DIAMOND	)	
MUSIC CORP.; WARNER-TAMERLANE	)	
PUBLISHING CORP.; UNIVERSAL-SONGS OF	)	
POLYGRAM INTERNATIONAL, INC.; SONGS	)	
OF UNIVERSAL, INC.; WELSH WITCH MUSIC;	)	
SONY/ATV SONGS LLC d/b/a SONY/ATV	)	
ACUFF ROSE MUSIC FOREIGN IMPORTED	)	
PRODUCTIONS AND PUBLISHING, INC.;	)	
WONDERLAND MUSIC COMPANY,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	
O'MARE'S IRISH PUB, LLC d/b/a O'MARE'S	)	
IRISH PUB; and BRIAN MORTON, individually,	)	
	)	
Defendants.	)	

**COMPLAINT**

Plaintiffs, by their attorneys, for their Complaint against Defendants, allege as follows (on knowledge as to Plaintiffs; otherwise on information and belief):

**JURISDICTION AND VENUE**

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 et seq. (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

**THE PARTIES**

3. Plaintiff Broadcast Music, Inc. ("BMI") is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 7 World Trade

Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public performance rights in approximately 8.5 million copyrighted musical compositions (the "BMI Repertoire"), including those which are alleged herein to have been infringed.

4. The Plaintiffs other than BMI are the owners of the copyrights in the musical compositions, which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Plaintiff Stone Diamond Music Corp. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

6. Plaintiff Warner-Tamerlane Publishing Corp. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

7. Plaintiff Universal-Songs of Polygram International, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

8. Plaintiff Songs of Universal, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

9. Plaintiff Welsh Witch Music is a sole proprietorship owned by Stephanie Nicks. This Plaintiff is the copyright owner of at least one of the songs in this matter.

10. Plaintiff Sony/ATV Songs LLC is a limited liability company d/b/a Sony/ATV Acuff Rose Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

11. Plaintiff Foreign Imported Productions and Publishing, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

12. Plaintiff Wonderland Music Company, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

13. Defendant O'Mare's Irish Pub, LLC is a limited liability company organized and existing under the laws of the Commonwealth of Pennsylvania, which operates, maintains and controls an establishment known as O'Mare's Irish Pub, LLC, located at 10253 Bustleton Avenue, Philadelphia, PA 19116-3705, in this district (the "Establishment").

14. In connection with the operation of the Establishment, Defendant O'Mare's Irish Pub, LLC publicly performs musical compositions and/or causes musical compositions to be publicly performed.

15. Defendant O'Mare's Irish Pub, LLC has a direct financial interest in the Establishment.

16. Defendant Brian Morton is a member of Defendant O'Mare's Irish Pub, LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

17. Defendant Brian Morton has the right and ability to supervise the activities of Defendant O'Mare's Irish Pub, LLC and a direct financial interest in that limited liability company and the Establishment.

#### CLAIMS OF COPYRIGHT INFRINGEMENT

18. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 17.

19. Plaintiffs allege fifteen (15) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire.

All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

20. Annexed to this Complaint as a schedule (the “Schedule”) and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the fifteen (15) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to “Lines” are lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the copyright registration number(s) for the musical composition; Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment where the infringement occurred.

21. For each work identified on the Schedule, the person(s) named on Line 3 was the creator of that musical composition.

22. For each work identified on the Schedule, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

23. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

24. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

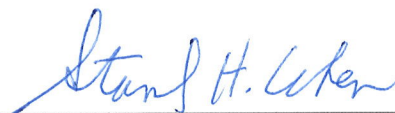
25. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

- (I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;

- (II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);
- (III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and
- (IV) Plaintiffs have such other and further relief as is just and equitable.

July 2, 2015



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## *Schedule*

Line 1	Claim No.	1
Line 2	Musical Composition	Ain't Too Proud To Beg
Line 3	Writer(s)	Eddie Holland, Norman Whitfield
Line 4	Publisher Plaintiff(s)	Stone Diamond Music Corp.
Line 5	Date(s) of Registration	5/9/66
Line 6	Registration No(s).	Ep 216556
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	2
Line 2	Musical Composition	Baby Love
Line 3	Writer(s)	Brian Holland; Lamont Dozier; Eddie Holland
Line 4	Publisher Plaintiff(s)	Stone Diamond Music Corp.
Line 5	Date(s) of Registration	9/2/64
Line 6	Registration No(s).	Ep 191753
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	3
Line 2	Musical Composition	Back In My Arms Again
Line 3	Writer(s)	Eddie Holland; Lamont Dozier; Brian Holland
Line 4	Publisher Plaintiff(s)	Stone Diamond Music Corp.
Line 5	Date(s) of Registration	3/15/65
Line 6	Registration No(s).	Ep 199498
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	4
Line 2	Musical Composition	Bernadette
Line 3	Writer(s)	Eddie Holland; Brian Holland; Lamont Dozier
Line 4	Publisher Plaintiff(s)	Stone Diamond Music Corp.
Line 5	Date(s) of Registration	2/8/67 3/1/95
Line 6	Registration No(s).	EP 227732 RE 696-713
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	5
Line 2	Musical Composition	Everyday People
Line 3	Writer(s)	Sylvester Stewart
Line 4	Publisher Plaintiff(s)	Warner-Tamerlane Publishing Corp.
Line 5	Date(s) of Registration	1/21/69
Line 6	Registration No(s).	Eu 99873
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	6
Line 2	Musical Composition	Games People Play a/k/a They Just Can't Stop It
Line 3	Writer(s)	Bruce Hawes; Joseph B. Jefferson; Charles Simmons
Line 4	Publisher Plaintiff(s)	Warner-Tamerlane Publishing Corp.
Line 5	Date(s) of Registration	11/1/74 9/24/75
Line 6	Registration No(s).	Eu 530797 Ep 343254
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	7
Line 2	Musical Composition	Goodbye Yellow Brick Road
Line 3	Writer(s)	Elton John; Bernie Taupin
Line 4	Publisher Plaintiff(s)	Universal - Songs Of Polygram International, Inc.
Line 5	Date(s) of Registration	3/7/74
Line 6	Registration No(s).	Efo 170947
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	8
Line 2	Musical Composition	I Can't Get Next To You
Line 3	Writer(s)	Barrett Strong; Norman Whitfield
Line 4	Publisher Plaintiff(s)	Stone Diamond Music Corp.
Line 5	Date(s) of Registration	8/4/69
Line 6	Registration No(s).	Ep 261684
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	9
Line 2	Musical Composition	It's Not Unusual
Line 3	Writer(s)	Gordon Mills; Les Reed
Line 4	Publisher Plaintiff(s)	Songs of Universal, Inc.
Line 5	Date(s) of Registration	3/1/65
Line 6	Registration No(s).	Ef 29774
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	10
Line 2	Musical Composition	Landslide
Line 3	Writer(s)	Stevie Nicks
Line 4	Publisher Plaintiff(s)	Stephanie Nicks, an individual d/b/a Welsh Witch Music
Line 5	Date(s) of Registration	6/30/75
Line 6	Registration No(s).	Eu 593046
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	11
Line 2	Musical Composition	Then Came You
Line 3	Writer(s)	Phil Pugh; Sherman Marshall
Line 4	Publisher Plaintiff(s)	Warner-Tamerlane Publishing Corp.
Line 5	Date(s) of Registration	4/25/74      12/16/74
Line 6	Registration No(s).	Eu 481311      Ep 332543
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	12
Line 2	Musical Composition	When Will I Be Loved
Line 3	Writer(s)	Phil Everly
Line 4	Publisher Plaintiff(s)	Sony/ATV Songs LLC d/b/a Sony/ATV Acuff Rose Music
Line 5	Date(s) of Registration	1/11/88 5/18/00
Line 6	Registration No(s).	RE 371-045 Ep141392
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	13
Line 2	Musical Composition	Words Get In The Way
Line 3	Writer(s)	Gloria M. Estefan
Line 4	Publisher Plaintiff(s)	Foreign Imported Productions And Publishing, Inc.
Line 5	Date(s) of Registration	4/5/85
Line 6	Registration No(s).	PA 245-876
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	14
Line 2	Musical Composition	Can You Feel The Love Tonight
Line 3	Writer(s)	Walt Disney Pictures
Line 4	Publisher Plaintiff(s)	Wonderland Music Company, Inc.
Line 5	Date(s) of Registration	5/24/94
Line 6	Registration No(s).	PAu 1-864-442
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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Line 1	Claim No.	15
Line 2	Musical Composition	Bad Luck
Line 3	Writer(s)	Victor Carstarphen; Gene McFadden; John Whitehead
Line 4	Publisher Plaintiff(s)	Warner-Tamerlane Publishing Corp.
Line 5	Date(s) of Registration	9/11/75 3/4/75
Line 6	Registration No(s).	Ep 342624 Eu 560453
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	O'Mare's Irish Pub

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